

MEMORANDUM



DATE: April 18, 2005
TO: House Appropriations Subcommittee on Transportation -- Revised
FROM: William E. Hamilton
RE: Transportation Administration Collection Fund

This memo is an amended version of a memo originally presented to the subcommittee on March 23, 2005.

Background – Article IX, Section 9 of the Michigan Constitution dedicates motor fuel taxes and vehicle registration taxes for transportation purposes, "*after payment of necessary collection expenses.*" This constitutionally-restricted revenue, estimated to generate \$2.1 billion in FY 2004-05, is first credited to the Michigan Transportation Fund (MTF) and then distributed to the following other funds and agencies:

- the State Trunkline Fund for preservation/improvement of state trunkline system
- the Comprehensive Transportation Fund for public transportation programs
- County road commissions, cities and villages for local road/street systems

Historically, the costs incurred by the Department of State for collecting vehicle registration taxes, and the Department of Treasury for collecting motor fuel taxes, have been reimbursed through interdepartmental grants (IDGs) made from the MTF. The balance of this memo will address the Department of State's costs of collecting MTF revenue and the ways those costs have been funded.

Department of State MTF Collection Costs – For a number of years, the Department of State's costs of collecting MTF revenue have been reviewed by MAXIMUS, a government consulting firm. The most recent MAXIMUS cost allocation study, dated September 15, 2004, was of the fiscal year ending September 30, 2003. The study found the department costs of collecting MTF revenue to be \$95.2 million. This amount was in line with findings of previous cost allocation studies, and is relatively close to the amount appropriated for the MTF IDG to the Department of State in the FY 2002-03 transportation budget, \$94.5 million.¹

In August 2003, the Legislature enacted PA 152 (SB 554) which created a Transportation Administration Collection Fund (TACF). The bill redirected certain vehicle registration service fees from the MTF to the new TACF, and also established a new certificate of title service fee which was dedicated to the TACF. At the same time, PA 151 of 2003 (SB 539) was enacted to limit the MTF reimbursement to the Department of State to \$20.0 million. The intention to these two bills was to provide for the Department of State's collection costs from two sources: TACF revenue (from the TACF service fees), and MTF revenue not to exceed \$20.0 million.

The FY 2003-04 General Government appropriations bill, SB 270, appropriated \$94.8 million for Department of State operations related to motor vehicle registrations - \$20.0 million from the Michigan Transportation Fund (MTF) and \$74.8 million from the TACF. The costs to the Department of State were approximately the same as in prior years, and the total appropriation was also approximately the same. However, the fund sourcing was changed; only \$20.0 million was appropriated directly from the MTF.

The TACF Revenue Problem –The vehicle registration fees earmarked for the TACF in SB 554 did not generate sufficient revenue in FY 2003-04 to match the \$74.8 million appropriated; the fund was short approximately \$14.0 million at the end of the fiscal year. In order to partially cover the FY 2003-04 TACF shortfall, \$10.0 million in GF/GP was appropriated in a FY 2003-04 supplemental appropriations bill (PA 360

¹ See the discussion at the end of this memo of the lawsuit brought by the County Road Association of Michigan regarding the constitutionality of certain Department of State costs allocated to the MTF.

of 2004) to replace \$10.0 million in TACF revenue in Department of State branch operations. The FY 2004-05 General Government appropriations act, PA 327 of 2004, also recognized the anticipated shortfall in TACF revenue by appropriating \$10.0 million GF/GP for Department of State branch operations.

In a State Budget Office letter to the House and Senate Appropriations Committees, dated February 10, 2005, the Executive proposed a FY 2004-05 supplemental appropriations bill which would replace the \$10.0 million in GF/GP appropriated for Department of State branch operations with TACF revenue. This proposed fund switch was subsequently effected through HB 4308 and Executive Order 2005-7. The additional TACF revenue would come from a proposed amendment to the Michigan Vehicle Code described below:

- Amend Section 806(1) of the Michigan Vehicle Code to redirect the \$5.00 expedited service fee from the MTF to the TACF - \$907,095.
- Amend Section 810 to redirect the \$8.00 transfer fee (Section 809) from the MTF to the TACF – \$10,404,552

The above revenue estimates are based on FY 2002-03 transaction data provided by the Michigan Secretary of State. A similar number of transactions can reasonably be expected for the current fiscal year and subsequent fiscal years.

The two changes to the Michigan Vehicle Code would redirect approximately \$11.3 million from the MTF to the TACF in FY 2004-05 if made retroactive to October 1, 2004, and would redirect like amounts each subsequent fiscal year through FY 2008-09. Authority for the various TACF service fees established in the Michigan Vehicle Code sunsets on October 1, 2009.

Effects of Fund Shift on Other Funds

The redirection of \$11.3 million from the MTF to the TACF would affect recipients of MTF revenue as follows:

State trunkline fund	(\$3,976,500)
County road commissions	(\$3,976,500)
Cities and villages	(\$2,217,000)
Comprehensive transportation fund	(\$1,130,000)

The reductions in State Trunkline Fund revenue would be reflected in reductions to Michigan Department of Transportation operating lines made in the supplemental appropriations bill proposed in State Budget Office February 10, 2005 letter, and subsequently reflected in HB 4308. These reductions would also be carried forward in the proposed FY 2005-06 budget. The State Budget Office letter did not include reductions in line items funded from the Comprehensive Transportation Fund (CTF) to reflect the reduction in CTF revenue.

The reductions to county road commissions and cities and villages would be reflected through marginally reduced MTF distributions to those local road agencies in the current fiscal year and in subsequent fiscal years. Note that the total annual MTF distribution to those local units is approximately \$1.0 billion.

County Road Association of Michigan vs. Engler – In November 2001, then-Governor Engler issued Executive Order 2001-9, to bring state appropriations in line with reduced revenue estimates. Among other things, the executive order authorized an increase in the MTF grant to the Department of State, from \$55.8 million to \$95.8 million. In 2002, the County Road Association of Michigan filed suit challenging various aspects of Executive Order 2001-9. The plaintiffs argued that the MTF grant to the Michigan Department of State was in violation of Article IX, Section 9 of the Michigan Constitution, in that the amount of the grant was in excess of the amount necessary to reimburse the department for the necessary costs of collecting motor vehicle taxes.

In December 2002, the trial court issued a preliminary injunction which found in part for the plaintiffs, and in part for the state. The Michigan Court of Appeals granted leave to appeal and in January 2004, affirmed the

decision of the trial court in part, and reversed in part. The Court of Appeals agreed with the trial court that costs related to processing automobile dealer licenses, driver improvement programs, and drivers' license appeals are not a necessary part of collecting MTF revenue and should not be charged to constitutionally-restricted transportation funds. The Court of Appeals concluded that the plaintiffs were likely to prevail on the merits with respect to \$7.3 million of the \$20.0 million covered by the trial court's preliminary injunction.

On March 9, 2005, the Michigan Supreme Court heard arguments to determine if it should grant leave to appeal the decision of the Court of Appeals.